

109TH CONGRESS  
2D SESSION

# H. R. 5854

To establish a pilot program under which the Secretary of Education allows selected States to combine certain funds under the Elementary and Secondary Education Act of 1965 to improve the academic achievement of its students.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2006

Mr. BEAUPREZ introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To establish a pilot program under which the Secretary of Education allows selected States to combine certain funds under the Elementary and Secondary Education Act of 1965 to improve the academic achievement of its students.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Partnership for Academic Success in the States Act” or  
6       the “PASS Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Pilot program required.
- Sec. 3. Performance agreements.
- Sec. 4. Eligible education grant programs.
- Sec. 5. Maintenance of academic performance standards.
- Sec. 6. Maintenance of funding levels spent by States on education.
- Sec. 7. Permissible uses of funds.
- Sec. 8. Allocation of funds within State.
- Sec. 9. Administrative expenses.
- Sec. 10. Equitable participation of private schools.
- Sec. 11. Fiscal responsibilities.
- Sec. 12. Annual reports.
- Sec. 13. Terms of performance agreements.
- Sec. 14. Modification of performance agreements.
- Sec. 15. Competitive selection process.
- Sec. 16. Performance review and early termination.
- Sec. 17. Awards for reducing achievement gaps.

3 **SEC. 2. PILOT PROGRAM REQUIRED.**

4 The Secretary of Education shall carry out a pilot  
 5 program under this Act, to be participated in by up to  
 6 10 States.

7 **SEC. 3. PERFORMANCE AGREEMENTS.**

8 (a) PERFORMANCE AGREEMENT REQUIRED.—For  
 9 each State participating in the pilot program, the Sec-  
 10 retary shall, pursuant to a performance agreement entered  
 11 into with that State—

12 (1) grant directly to the State the grant  
 13 amounts that the State (or any entity within the  
 14 State, if applicable) would otherwise receive under  
 15 one or more eligible education grant programs cov-  
 16 ered by the agreement; and

1           (2) waive the applicability to the State (or any  
2           entity within the State, if applicable) of one or more  
3           requirements of those programs.

4           (b) SPECIFICATION OF PROGRAMS TO BE COVERED  
5           AND REQUIREMENTS TO BE WAIVED.—The performance  
6           agreement shall specify the programs covered by the  
7           agreement and the requirements to be waived pursuant  
8           to the agreement.

9           (c) REQUIREMENTS THAT CANNOT BE WAIVED.—  
10          The Secretary shall not, pursuant to a performance agree-  
11          ment under this Act, waive any requirement under any  
12          of the following provisions of the Elementary and Sec-  
13          ondary Education Act of 1965:

14               (1) Section 1111(b) (20 U.S.C. 6311(b); relat-  
15               ing to academic standards, academic assessments,  
16               and accountability).

17               (2) Section 1111(h) (20 U.S.C. 6311(h); relat-  
18               ing to report cards).

19               (3) Section 1116(b)(1)(E) (20 U.S.C.  
20               6316(b)(1)(E); relating to public school choice).

21       **SEC. 4. ELIGIBLE EDUCATION GRANT PROGRAMS.**

22          For purposes of this Act, the eligible education grant  
23          programs are the following:

24               (1) In title I of the Elementary and Secondary  
25          Education Act of 1965—

1 (A) part A (relating to improving basic  
2 programs operated by local educational agen-  
3 cies);

4 (B) subpart 3 of part B (relating to Wil-  
5 liam F. Goodling Even Start Family Literacy  
6 Programs);

7 (C) part C (relating to education of migra-  
8 tory children);

9 (D) part D (relating to prevention and  
10 intervention programs for children and youth  
11 who are neglected, delinquent, or at-risk); and

12 (E) part F (relating to comprehensive  
13 school reform).

14 (2) In title II of that Act—

15 (A) part A (relating to teacher and prin-  
16 cipal training and recruiting fund); and

17 (B) subpart 1 of part D (relating to State  
18 and local technology grants).

19 (3) In title III of that Act, part A (relating to  
20 English language acquisition, language enhance-  
21 ment, and academic achievement).

22 (4) In title IV of that Act, part A (relating to  
23 safe and drug-free schools and communities).

24 (5) In title V of that Act—

1 (A) part A (relating to innovative pro-  
2 grams); and

3 (B) part D (relating to the fund for the  
4 improvement of education).

5 (6) In title VII of that Act, part A (relating to  
6 Indian education).

7 (7) Sections 115 and 116, and parts B and C  
8 of title I, of the Carl D. Perkins Vocational Tech-  
9 nical Education Act.

10 (8) Subtitle B of title VII of the McKinney-  
11 Vento Homeless Assistance Act.

12 **SEC. 5. MAINTENANCE OF ACADEMIC PERFORMANCE**  
13 **STANDARDS.**

14 Each State participating in the pilot program shall,  
15 throughout the term of the performance agreement—

16 (1) maintain a uniform level of challenging stu-  
17 dent academic performance standards and assess-  
18 ments; and

19 (2) demonstrate adequate yearly progress to-  
20 ward achieving those standards.

21 **SEC. 6. MAINTENANCE OF FUNDING LEVELS SPENT BY**  
22 **STATES ON EDUCATION.**

23 For each State participating in the pilot program, for  
24 each school year of the performance agreement, the aggre-  
25 gate amount of funds spent by the State on elementary

1 and secondary education shall be not less than the aggre-  
2 gate amount of funds spent by the State on elementary  
3 and secondary education for school year 2007. If a State  
4 demonstrates that exceptional or uncontrollable cir-  
5 cumstances, such as a natural disaster or a precipitous  
6 and unforeseen decline in the financial resources of the  
7 State, prevent the State from complying with this require-  
8 ment, the Secretary may waive the applicability of this re-  
9 quirement to the State.

10 **SEC. 7. PERMISSIBLE USES OF FUNDS.**

11 Grant amounts received pursuant to a performance  
12 agreement under this Act may be used for any elementary  
13 and secondary education purposes permitted by State law,  
14 in a manner that advances the education priorities of the  
15 State, improves student achievement, and narrows  
16 achievement gaps between students.

17 **SEC. 8. ALLOCATION OF FUNDS WITHIN STATE.**

18 (a) IN GENERAL.—Grant amounts received pursuant  
19 to a performance agreement under this Act shall be dis-  
20 tributed within the State as provided by State law, subject  
21 to subsection (b).

22 (b) NO REDUCTION IN PART A TITLE I ALLOCA-  
23 TION.—To the extent such grant amounts are derived  
24 from part A of title I of the Elementary and Secondary  
25 Education Act of 1965, the State shall ensure that, for

1 each local educational agency within the State for each  
2 school year, the amount that is allocated to that local edu-  
3 cational agency for that school year pursuant to the per-  
4 formance agreement is not less than the amount that was  
5 allocated to that local educational agency for school year  
6 2007 pursuant to part A of title I of that Act. If the State  
7 cannot comply with this subsection because the total grant  
8 amounts derived from part A of title I of that Act are  
9 inadequate, the State shall reduce each local educational  
10 agency's allocation by a uniform percentage.

11 **SEC. 9. ADMINISTRATIVE EXPENSES.**

12 A State may use not more than 1 percent of the grant  
13 amounts received pursuant to a performance agreement  
14 under this Act for administrative expenses.

15 **SEC. 10. EQUITABLE PARTICIPATION OF PRIVATE**  
16 **SCHOOLS.**

17 Grant amounts received pursuant to a performance  
18 agreement under this Act shall be used in a manner that  
19 provides for the equitable participation of private schools,  
20 and the students and professional staff of such schools.

21 **SEC. 11. FISCAL RESPONSIBILITIES.**

22 Grant amounts received pursuant to a performance  
23 agreement under this Act shall be subject to fiscal control  
24 and fund accounting procedures that ensure that those  
25 amounts are properly disbursed and accounted for.

1 **SEC. 12. ANNUAL REPORTS.**

2 (a) IN GENERAL.—After each school year during  
3 which a State has participated in the pilot program, the  
4 State shall submit to the Secretary a report on the activi-  
5 ties carried out under the performance agreement during  
6 that school year. The report shall describe in detail how  
7 the State has complied with the performance agreement  
8 and with the other requirements of this Act. The State  
9 shall ensure that the report is disseminated widely to par-  
10 ents and the general public, distributed to print and  
11 broadcast media, and posted on the Internet.

12 (b) SUBMISSION TO CONGRESS.—Not later than 60  
13 days after the Secretary receives a report under subsection  
14 (a), the Secretary shall submit that report to Congress,  
15 together with any other information the Secretary con-  
16 siders appropriate.

17 **SEC. 13. TERMS OF PERFORMANCE AGREEMENTS.**

18 (a) INITIAL TERM.—Each performance agreement  
19 under this Act shall apply for an initial term beginning  
20 with school year 2008 and ending with school year 2012.

21 (b) ADDITIONAL TERM.—Each such performance  
22 agreement may, with the approval of the State and the  
23 Secretary entered into before the expiration of the initial  
24 term, be extended for an additional term beginning with  
25 school year 2013 and ending with school year 2017. The  
26 Secretary shall not withhold approval under this sub-



1 section if the State has demonstrated the adequate yearly  
2 progress required by this Act and has substantially com-  
3 plied with its other obligations under this Act.

4 **SEC. 14. MODIFICATION OF PERFORMANCE AGREEMENTS.**

5 The terms of a performance agreement may, with the  
6 approval of the State and the Secretary, be modified dur-  
7 ing the term of the performance agreement for school  
8 years that have not yet begun.

9 **SEC. 15. COMPETITIVE SELECTION PROCESS.**

10 The Secretary shall, by regulation, establish a process  
11 for the selection of States to participate in the pilot pro-  
12 gram. The process shall include the following:

13 (1) APPLICATION.—To be considered for par-  
14 ticipation, a State must submit an application to the  
15 Secretary in such form, and containing such infor-  
16 mation, as the Secretary may require. The State  
17 must submit the application not later than March  
18 31, 2007, but after that date may modify the appli-  
19 cation (including the draft performance agreement  
20 described in paragraph (2)) with the approval of the  
21 Secretary.

22 (2) PROPOSED PERFORMANCE AGREEMENT.—  
23 The application must include a draft of the perform-  
24 ance agreement that the State proposes to enter into  
25 for purposes of the pilot program.

1           (3) CERTIFICATION OF COMPLIANCE WITH NO-  
2           TICE AND COMMENT REQUIREMENTS.—The applica-  
3           tion must include the certification of the Governor of  
4           the State that the performance agreement that the  
5           State proposes has been developed by the State in  
6           accordance with the notice and comment require-  
7           ments that apply under State law.

8           (4) SELECTION.—The Secretary shall select  
9           States for participation on a competitive basis, using  
10          criteria established by the Secretary. Each selection  
11          shall be completed not later than June 30, 2007.

12          (5) ENTERING INTO PERFORMANCE AGREE-  
13          MENT.—For each State so selected, the Secretary  
14          and the State shall enter into the performance  
15          agreement proposed by the State. Each performance  
16          agreement shall be entered into not later than Au-  
17          gust 15, 2007.

18 **SEC. 16. PERFORMANCE REVIEW AND EARLY TERMI-**  
19 **NATION.**

20          (a) PERIODIC REVIEW.—For each State participating  
21          in the pilot program, the Secretary shall periodically carry  
22          out a review to determine whether the State has dem-  
23          onstrated the adequate yearly progress required by this  
24          Act and has substantially complied with its other obliga-  
25          tions under this Act.

1 (b) EARLY TERMINATION.—The Secretary may ter-  
2 minate a performance agreement, before the term of that  
3 agreement expires, if—

4 (1) the State does not, for three consecutive  
5 school years, demonstrate the adequate yearly  
6 progress required by this Act; or

7 (2) the State does not substantially comply with  
8 any other obligation under this Act.

9 **SEC. 17. AWARDS FOR REDUCING ACHIEVEMENT GAPS.**

10 (a) AWARDS REQUIRED.—The Secretary shall make  
11 awards to each State that completes the initial term of  
12 its performance agreement and, over that term, achieves  
13 the reduction described in subsection (b).

14 (b) REDUCTION.—The reduction referred to in sub-  
15 section (a) is a reduction by not less than 25 percent, of  
16 the difference between the percentage of highest and low-  
17 est performing groups of students that meet the State’s  
18 definition of “proficient”, as referenced in section  
19 1111(b)(1)(D)(ii)(II) of the Elementary and Secondary  
20 Education Act of 1965. The reduction must apply to at  
21 least two grade levels and at least two of the following  
22 content areas: mathematics, reading, and science.

23 (c) AMOUNT OF AWARD.—The amount of an award  
24 under this section shall be not less than 5 percent of the

1 grant amounts received by the State pursuant to the per-  
2 formance agreement for school year 2008.

3 (d) SOURCE OF FUNDS.—Awards under this section  
4 are subject to the availability of appropriations and shall  
5 be paid from the Fund for the Improvement of Education  
6 under part D of title V of the Elementary and Secondary  
7 Education Act of 1965.

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